# UNITED STATES BANKRUPTCY COURT IN THE WESTERN DISTRICT OF TENNESSEE WESTERN DIVISION

In re: LENORA JEAN BYRD	§	Case No. 18-25233
AKA JEAN H BYRD	§	(Chapter 13)
	§	
	§	
SPECIALIZED LOAN SERVICING, LLC,	§	
CREDITOR	§	
	§	
vs.	§	
	§	
LENORA JEAN BYRD	§	
AKA JEAN H BYRD, DEBTOR AND SYLVIA	§	
F. BROWN, TRUSTEE,	§	
RESPONDENTS	§	
	§	
	§	
	§	
	§	

# OBJECTION TO CONFIRMATION BY SPECIALIZED LOAN SERVICING, LLC

#### TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

COMES NOW, SPECIALIZED LOAN SERVICING, LLC (hereinafter Creditor), a secured creditor herein, and pursuant to 11 U.S.C §§ 1322(b)(2), 1324 and 1325(a)(5), and Bankruptcy Rule 3015(f) files this, its Objection to Debtor(s) proposed Chapter 13 Plan (hereinafter Plan), and in support thereof would respectfully show the Court as follows:

#### I. BACKGROUND

- 1. Lenora Jean Byrd aka Jean H Byrd, Debtor, commenced the above captioned Chapter 13 case on June 25, 2018. Sylvia F. Brown is the duly appointed and acting Chapter 13 Trustee.
- 2. Creditor is the mortgage servicer for the mortgagee of a Note in the original principal sum of \$97,000.00, dated August 8, 2008 executed by Debtor. The Note is secured by a Deed of Trust of even date therewith granting a lien against real property located at 1560 Wirt Road, Oakland, TN 38060 (hereinafter Property). The Note and Deed of Trust were assigned to Creditor.
  - 3. The total pre-petition arrearages owing to Creditor as of the Petition Date was \$23,208.82.

#### II. OBJECTION TO PROPOSED PLAN

Case 18-25233 Doc 15 Filed 07/05/18 Entered 07/05/18 17:43:45 Desc Main Document Page 2 of 4

4. Creditor objects to confirmation of the Plan because the Plan understates the correct monthly

payment; per the plan it is \$621.10, but per Creditor it is \$714.60.

5. Furthermore, the Plan incorrectly states there is only \$16,881.70 due in arrearages when, in fact,

Creditor is entitled to full payment of its secured pre-petition arrearage claim and its secured post-petition

arrearages pursuant to the Note and Deed of Trust which will approximately amount to the \$105,784.87.

6. Because the regular monthly payment and the total arrears listed for Creditor are understated, the

Chapter 13 plan may not be feasible.

7. Because Creditor was forced to file this Objection to Confirmation to protect its secured interest

in the subject real property, it has incurred reasonable attorneys' fees.

WHEREFORE, PREMISES CONSIDERED, Creditor prays this Court deny confirmation of

the Plan proposed by the Debtor, and attorneys' fees and costs, and grant Creditor such other and further

relief, at law and in equity, as is just.

Respectfully submitted,

MACKIE WOLF ZIENTZ & MANN, P.C.

/s/ Winston Davis

Winston Davis, Bar No. 35104 Mackie Wolf Zientz & Mann, P.C. 5217 Maryland Way, Suite 404

Brentwood, TN 37027

Telephone: (615) 238-3630

Facsimile: (615) 777-4517

Email: wdavis@mwzmlaw.com

ATTORNEY FOR CREDITOR

# **CERTIFICATE OF SERVICE**

I, Winston Davis, do hereby certify on July 5, 2018 a copy of the motion was served on the persons listed below in the manner indicated.

/s/ Winston Davis
Winston Davis

Via U.S. Mail: Lenora Jean Byrd aka Jean H Byrd 1560 Wirt Road Oakland, TN 38060 Debtor(s)

Via ECF: Hurst, Herbert D. P.O. Box 41497 Memphis, TN 38174-1497 Attorney for Debtor(s)

Via ECF: Sylvia F. Brown 200 Jefferson Ave. Suite #1113 Memphis, TN 38103 Chapter 13 Trustee

Via ECF US Trustee Case 18-25233 Doc 15 Filed 07/05/18 Entered 07/05/18 17:43:45 Desc Main Document Page 4 of 4

# UNITED STATES BANKRUPTCY COURT IN THE WESTERN DISTRICT OF TENNESSEE WESTERN DIVISION

IN RE: LENORA JEAN BYRD	§	Case No. 18-25233
AKA JEAN H BYRD	§	(Chapter 13)
	§	•
	§	
SPECIALIZED LOAN SERVICING, LLC,	§	
CREDITOR	§	
	§	
VS.	§	
	§	
LENORA JEAN BYRD	§	
AKA JEAN H BYRD, DEBTOR AND SYLVIA	§	
F. BROWN, TRUSTEE,	§	
RESPONDENTS	§	
	§	
	§	
	§	
	§	

## **ORDER DENYING CONFIRMATION**

The Objection to Confirmation filed by SPECIALIZED LOAN SERVICING, LLC is granted. It is therefore, ORDERED, ADJUDGED AND DECREED that confirmation of Debtor Chapter 13 Plan is denied, without prejudice to submission of a Plan that cures Creditors Objection.

Dated this day of	, 20	
_		

UNITED STATES BANKRUPTCY JUDGE PRESIDING

## APPROVED AS TO FORM AND SUBSTANCE:

/s/ Winston Davis
Winston Davis, Bar No. 35104
Mackie Wolf Zientz & Mann, P.C.
5217 Maryland Way, Suite 404
Brentwood, TN 37027
Telephone: (615) 238-3630
Facsimile: (615) 777-4517
Email: wdavis@mwzmlaw.com

ATTORNEY FOR CREDITOR

18-000007-280